

WASHINGTON — Today, the Subcommittee on Elections held a hearing on the Voter Confidence and Increased Accessibility Act of 2007 (H.R. 811), an election reform bill introduced by Rep. Rush Holt, D-N.J. The hearing on H.R. 811, led by Chairwoman Zoe Lofgren, D-Calif., and Subcommittee Ranking Member Kevin McCarthy, R-Calif., follows a series of Subcommittee hearings on the election reform initiatives outlined in the proposed legislation. During the hearing, the Subcommittee received testimony from lawmakers and election experts, some of whom expressed support for parts of the bill. However nearly all, including Holt himself, conceded that the bill's current language would not be sufficient in achieving the intent of the legislation.

On the intellectual property concerns that would result from forcing electronic voting machine vendors to provide proprietary source codes to the general public, Holt indicated that consideration would need to be given to those items that were deemed to be "legitimate trade secrets," but offered no explanation as to which pieces of information would fall into that category, or the process by which those decisions would be made. Holt also conceded that while H.R. 811 called for "durable paper of archival quality," he did not initially realize what such a mandate would entail, and that contrary to the bill's language, "the paper trail does not have to meet archival quality." When asked if the bill included provisions to prevent voter fraud, Rep. Holt admitted that "a number of things are not dealt with in this legislation."

The hearing also featured testimony from several witnesses at the state level who, if H.R. 811 becomes law, would be held accountable for carrying out the bill's provisions. Under the bill, an independent Audit Board would be created to administer audits of at least 3% of precincts after every federal election. When California's Secretary of State, Debra Bowen, was asked about who should determine the percentage of audits conducted following an election, she indicated that statisticians, not Members of Congress, hold the answers. "This isn't a place where politicians should be making the call," said Bowen.

Critics of the legislation argued that it would roll back the tremendous progress made by the 2002 Help America Vote Act (HAVA), and that the bill's "one-size-fits-all" approach would place unrealistic and costly burdens on state election officials. They also argued that the voter-verified paper audit trail (VVPAT) proposed in the bill would leave visually impaired voters at a disadvantage, since they will be unable to review the accuracy of the paper trail.

Both Bowen and South Dakota's Secretary of State Chris Nelson expressed concerns with the bill's inadequate funding and unrealistic timetables for implementation. Said Bowen, "the last

thing any of us want is to truncate public review of any system, rushing through approval under the presumption that any solution is better than the current system, only to find ourselves back here in two or three years, having this same discussion all over again.” Nelson also spoke about the need for election reform to remain in the capable hands of election officials that are able to create solutions that fit the needs of local voters. In his testimony to the Subcommittee, Nelson stated, “Inflexible federal laws such as H.R. 811 which provide a one-size-fits-all solutions, are ripe for unintended consequences.”

“I am not opposed to H.R. 811’s objective of election accountability, but I am concerned over the bill’s potential consequences and federal mandates as written in its current form,” said Ranking Member McCarthy. “Today’s hearing demonstrated that a better bill needs to be crafted because dramatically altering our election laws on the eve of a major Presidential election brings up questions of feasibility and costs for state and local jurisdictions.”

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